



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

OCT 15 2018

Mr. Patrick McDonnell, Secretary
Pennsylvania Department of Environmental Protection
Rachel Carson State Office Building
400 Market Street
Harrisburg, Pennsylvania 17101

Dear Secretary McDonnell,

I am writing to you to follow up on our previous correspondence and meeting concerning the use of polychlorinated biphenyls (PCBs) within the Commonwealth at concentrations which exceeds federal limits established pursuant to the Toxic Substances and Control Act, 15 U.S.C. Section 2601 et seq. and regulations at 40 C.F.R. Part 761 (TSCA). Currently, the Pennsylvania Department of Environmental Protection (PADEP) General Permit for Beneficial Use-WMGR096 (hereinafter Beneficial Use Permit) allows materials containing up to 484.5 ppm of total PCBs to be used as construction fill material. In addition, the PADEP Clean Fill Policy allows materials containing up to 78 ppm of total PCBs to be used in an unrestricted and unregulated manner. Pursuant to TSCA, the use of PCB-containing material at concentrations of 2 ppm total PCB and greater is not authorized. Therefore, the PCB levels allowed by the Beneficial Use Permit and the Clean Fill Policy exceed the federal TSCA PCB use authorization level.

EPA has been coordinating with your staff to explore options to ensure that materials containing 2 ppm or greater of PCBs are no longer accepted for use within the Commonwealth. EPA has proposed using a Memorandum of Agreement with PADEP to set forth a process to resolve the PCB use issues. To date, EPA has not received agreement from PADEP on the MOA, and the issue remains unresolved. In addition, PADEP has stated that it plans to propose an amendment to the Clean Fill Policy and have it published as draft in the PA Bulletin in the 4th quarter of the year. To date, it does not appear that PADEP has modified its Beneficial Use Permit or has it changed its Clean Fill Policy.

Pennsylvania is the only state in the country, with one exception, issuing Beneficial Use Permits which allow the importation of PCB-containing materials with concentrations greater than 1 ppm (New Jersey allows up to 10 ppm with significant restrictions). Federal enforcement against out of state generators sending PCB-containing materials to the Commonwealth has occurred. It is our desire to work with PADEP to resolve the unauthorized use of PCBs in the Commonwealth. This will ensure that



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Pennsylvania facilities and generators from other locations who send materials to the Commonwealth will have regulatory certainty when it comes to the use of PCB-containing material. If you have any questions prior to our future discussions, please contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cosmo Servidio", followed by a horizontal line.

Cosmo Servidio,
Regional Administrator